

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

CRESTBROOK INSURANCE COMPANY,

Plaintiff,

v.

THE TRAVELERS INDEMNITY
COMPANY OF CONNECTICUT, et al.,

Defendants.

Case No. 1:24-cv-01075-SAB

ORDER RE: STIPULATION FOR
PROTECTIVE ORDER

(ECF No. 15)

1. **A. PURPOSES AND LIMITATIONS**

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. The parties further acknowledge, as set forth in Section 12.3 (Filing Protected Material), below, that this Stipulated Protective Order does not entitle them to file confidential information under seal;

1 Civil Local Rule 141 sets forth the procedures that must be followed and the
2 standards that will be applied when a party seeks permission from the court to file
3 material under seal.

4 B. GOOD CAUSE STATEMENT

5 This action is likely to involve trade secrets, commercial, financial,
6 medical, insurance, and/or personally identifiable information for which special
7 protection from public disclosure and from use for any purpose other than
8 prosecution of this action is warranted. Such confidential and proprietary
9 materials and information consist of, among other things, confidential personal
10 and privileged records of the parties' insureds collected and/or received in
11 connection with the underlying insurance claim (including information
12 implicating privacy rights of the parties' insureds and other third parties such as
13 medical, financial, and personally identifiable information), information
14 otherwise generally unavailable to the public, or which may be privileged or
15 otherwise protected from disclosure under state or federal statutes, court rules,
16 case decisions, or common law. Accordingly, to expedite the flow of
17 information, to facilitate the prompt resolution of disputes over confidentiality of
18 discovery materials, to adequately protect information the parties are entitled
19 and/or required to keep confidential, to ensure that the parties are permitted
20 reasonable necessary uses of such material in preparation for and in the conduct
21 of trial, to address their handling at the end of the litigation, and serve the ends of
22 justice, a protective order for such information is justified in this matter. It is the
23 intent of the parties that information will not be designated as confidential for
24 tactical reasons and that nothing be so designated without a good faith belief that
25 it has been maintained in a confidential, non-public manner, and there is good
26 cause why it should not be part of the public record of this case.

27 ///

28 ///

2. DEFINITIONS

2.1 Action: *Crestbrook Insurance Company v. Travelers Indemnity Company of Connecticut, et al.*, Case No. 1:24-cv-1075-SAB.

2.2 Challenging Party: a Party or Non-Party that challenges the designation of information or items under this Order.

2.3 “CONFIDENTIAL” Information or Items: information (regardless of how it is generated, stored, or maintained) or tangible things that qualify for protection under Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause Statement.

2.4 Counsel: Outside Counsel of Record and House Counsel (as well as their support staff).

2.5 Designating Party: a Party or Non-Party that designates information or items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

2.6 Disclosure or Discovery Material: all items or information, regardless of the medium or manner in which it is generated, stored, or maintained (including, among other things, testimony, transcripts, and tangible things), that are produced or generated in disclosures or responses to discovery in this matter.

2.7 Expert: a person with specialized knowledge or experience in a matter pertinent to the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a consultant in this Action.

2.8 House Counsel: attorneys who are employees of a party to this Action. House Counsel does not include Outside Counsel of Record or any other outside counsel.

2.9 Non-Party: any natural person, partnership, corporation, association, or other legal entity not named as a Party to this action.

2.10 Outside Counsel of Record: attorneys who are not employees of a

party to this Action but are retained to represent or advise a party to this Action and have appeared in this Action on behalf of that party or are affiliated with a law firm which has appeared on behalf of that party, including support staff.

2.11 Party: any party to this Action, including all of its officers, directors, employees, consultants, retained experts, and Outside Counsel of Record (and their support staffs).

2.12 Producing Party: a Party or Non-Party that produces Disclosure or Discovery Material in this Action.

2.13 Professional Vendors: persons or entities that provide litigation support services (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing, storing, or retrieving data in any form or medium) and their employees and subcontractors.

2.14 Protected Material: any Disclosure or Discovery Material that is designated as “CONFIDENTIAL.”

2.15 Receiving Party: a Party that receives Disclosure or Discovery Material from a Producing Party.

3. SCOPE

The protections conferred by this Stipulation and Order cover not only Protected Material (as defined above), but also (1) any information copied or extracted from Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony, conversations, or presentations by Parties or their Counsel that might reveal Protected Material.

Any use of Protected Material at trial shall be governed by the orders of the trial judge. This Order does not govern the use of Protected Material at trial.

4. DURATION

Even after final disposition of this litigation, the confidentiality obligations imposed by this Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order otherwise directs. Final disposition shall be

1 deemed to be the later of (1) dismissal of all claims and defenses in this Action,
2 with or without prejudice; and (2) final judgment herein after the completion and
3 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
4 including the time limits for filing any motions or applications for extension of
5 time pursuant to applicable law.

6 5. DESIGNATING PROTECTED MATERIAL

7 5.1 Exercise of Restraint and Care in Designating Material for
8 Protection.

9 Each Party or Non-Party that designates information or items for protection under
10 this Order must take care to limit any such designation to specific material that
11 qualifies under the appropriate standards. The Designating Party must designate
12 for protection only those parts of material, documents, items, or oral or written
13 communications that qualify so that other portions of the material, documents,
14 items, or communications for which protection is not warranted are not swept
15 unjustifiably within the ambit of this Order.

16 Mass, indiscriminate, or routinized designations are prohibited.
17 Designations that are shown to be clearly unjustified or that have been made for
18 an improper purpose (e.g., to unnecessarily encumber the case development
19 process or to impose unnecessary expenses and burdens on other parties) may
20 expose the Designating Party to sanctions.

21 If it comes to a Designating Party's attention that information or items that it
22 designated for protection do not qualify for protection, that Designating Party
23 must promptly notify all other Parties that it is withdrawing the inapplicable
24 designation.

25 5.2 Manner and Timing of Designations. Except as otherwise provided
26 in this Order (see, e.g., second paragraph of Section 5.2(a) below), or as
27 otherwise stipulated or ordered, Disclosure or Discovery Material that qualifies
28 for protection under this Order must be clearly so designated before the material

1 is disclosed or produced.

2 Designation in conformity with this Order requires:

3 (a) for information in documentary form (e.g., paper or electronic
4 documents, but excluding transcripts of depositions or other pretrial or trial
5 proceedings), that the Producing Party affix at a minimum, the legend
6 “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”), to each page that
7 contains protected material. If only a portion or portions of the material on a
8 page qualifies for protection, the Producing Party also must clearly identify the
9 protected portion(s) (e.g., by making appropriate markings in the margins).

10 A Party or Non-Party that makes original documents available for
11 inspection need not designate them for protection until after the inspecting Party
12 has indicated which documents it would like copied and produced. During the
13 inspection and before the designation, all of the material made available for
14 inspection shall be deemed “CONFIDENTIAL.” After the inspecting Party has
15 identified the documents it wants copied and produced, the Producing Party must
16 determine which documents, or portions thereof, qualify for protection under this
17 Order. Then, before producing the specified documents, the Producing Party
18 must affix the “CONFIDENTIAL legend” to each page that contains Protected
19 Material. If only a portion or portions of the material on a page qualifies for
20 protection, the Producing Party also must clearly identify the protected portion(s)
21 (e.g., by making appropriate markings in the margins).

22 (b) for testimony given in depositions that the Designating Party
23 identify the Disclosure or Discovery Material on the record, before the close of
24 the deposition all protected testimony.

25 (c) for information produced in some form other than documentary
26 and for any other tangible items, that the Producing Party affix in a prominent
27 place on the exterior of the container or containers in which the information is
28 stored the legend “CONFIDENTIAL.” If only a portion or portions of the

1 information warrants protection, the Producing Party, to the extent practicable,
2 shall identify the protected portion(s).

3 5.3 Inadvertent Failures to Designate. If timely corrected, an
4 inadvertent failure to designate qualified information or items does not, standing
5 alone, waive the Designating Party's right to secure protection under this Order
6 for such material. Upon timely correction of a designation, the Receiving Party
7 must make reasonable efforts to assure that the material is treated in accordance
8 with the provisions of this Order.

9 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

10 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
11 designation of confidentiality at any time that is consistent with the Court's
12 Scheduling Order.

13 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
14 resolution process under Civil Local Rule 251 et seq.

15 6.3 The burden of persuasion in any such challenge proceeding shall be
16 on the Designating Party. Frivolous challenges, and those made for an
17 improper purpose (e.g., to harass or impose unnecessary expenses and burdens on
18 other parties), may expose the Challenging Party to sanctions. Unless the
19 Designating Party has waived or withdrawn the confidentiality designation, all
20 parties shall continue to afford the material in question the level of
21 protection to which it is entitled under the Producing Party's designation until
22 the Court rules on the challenge.

23 7. ACCESS TO AND USE OF PROTECTED MATERIAL

24 7.1 Basic Principles. A Receiving Party may use Protected Material
25 that is disclosed or produced by another Party or by a Non-Party in connection
26 with this Action only for prosecuting, defending, or attempting to settle this
27 Action. Such Protected Material may be disclosed only to the categories of
28 persons and under the conditions described in this Order. When the Action has

1 been terminated, a Receiving Party must comply with the provisions of Section
2 13 below (FINAL DISPOSITION).

3 Protected Material must be stored and maintained by a Receiving Party
4 at a location and in a secure manner that ensures that access is limited to the
5 persons authorized under this Order.

6 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
7 otherwise ordered by the Court or permitted in writing by the Designating Party,
8 a Receiving Party may disclose any information or item designated
9 “CONFIDENTIAL” only to:

10 (a) the Receiving Party’s Outside Counsel of Record in this Action, as
11 well as employees of said Outside Counsel of Record to whom it is reasonably
12 necessary to disclose the information for this Action;

13 (b) the officers, directors, and employees (including House Counsel)
14 of the Receiving Party to whom disclosure is reasonably necessary for this
15 Action;

16 (c) Experts (as defined in this Order) of the Receiving Party to whom
17 disclosure is reasonably necessary for this Action and who have signed the
18 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

19 (d) the Court and its personnel;

20 (e) court reporters and their staff;

21 (f) professional jury or trial consultants, mock jurors, and Professional
22 Vendors to whom disclosure is reasonably necessary for this Action and who
23 have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

24 (g) the author or recipient of a document containing the information or
25 a custodian or other person who otherwise possessed or knew the information;

26 (h) during their depositions, witnesses, and attorneys for witnesses, in
27 the Action to whom disclosure is reasonably necessary provided: (1) the deposing
28 party requests that the witness sign the form attached as Exhibit A hereto; and (2)

1 they will not be permitted to keep any confidential information unless they sign
2 the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless
3 otherwise agreed by the Designating Party or ordered by the Court. Pages of
4 transcribed deposition testimony or exhibits to depositions that reveal Protected
5 Material may be separately bound by the court reporter and may not be disclosed
6 to anyone except as permitted under this Stipulated Protective Order; and

7 (i) any mediator or settlement officer, and their supporting personnel,
8 mutually agreed upon by any of the parties engaged in settlement discussions.

9 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED
10 PRODUCED IN OTHER LITIGATION

11 If a Party is served with a subpoena or a court order issued in other
12 litigation that compels disclosure of any information or items designated in this
13 Action as “CONFIDENTIAL,” that Party must:

14 (a) promptly notify in writing the Designating Party. Such
15 notification shall include a copy of the subpoena or court order;

16 (b) promptly notify in writing the party who caused the subpoena or
17 order to issue in the other litigation that some or all of the material covered by the
18 subpoena or order is subject to this Protective Order. Such notification shall
19 include a copy of this Stipulated Protective Order; and

20 (c) cooperate with respect to all reasonable procedures sought to be
21 pursued by the Designating Party whose Protected Material may be affected.

22 If the Designating Party timely seeks a protective order, the Party served
23 with the subpoena or court order shall not produce any information designated in
24 this action as “CONFIDENTIAL” before a determination by the court from
25 which the subpoena or order issued, unless the Party has obtained the
26 Designating Party’s permission. The Designating Party shall bear the burden and
27 expense of seeking protection in that court of its confidential material, and
28 nothing in these provisions should be construed as authorizing or encouraging a

Receiving Party in this Action to disobey a lawful directive from another court.

9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE
PRODUCED IN THIS LITIGATION

(a) The terms of this Order are applicable to information produced by a Non-Party in this Action and designated as "CONFIDENTIAL." Such information produced by Non-Parties in connection with this litigation is protected by the remedies and relief provided by this Order. Nothing in these provisions should be construed as prohibiting a Non-Party from seeking additional protections.

(b) In the event that a Party is required, by a valid discovery request, to produce a Non-Party's confidential information in its possession, and the Party is subject to an agreement with the Non-Party not to produce the Non-Party's confidential information, then the Party shall:

(1) promptly notify in writing the Requesting Party and the Non-Party that some or all of the information requested is subject to a confidentiality agreement with a Non-Party;

(2) promptly provide the Non-Party with a copy of the Stipulated Protective Order in this Action, the relevant discovery request(s), and a reasonably specific description of the information requested; and

(3) make the information requested available for inspection by the Non-Party, if requested.

(c) If the Non-Party fails to seek a protective order from this Court within 14 days of receiving the notice and accompanying information, the Receiving Party may produce the Non-Party's confidential information responsive to the discovery request. If the Non-Party timely seeks a protective order, the Receiving Party shall not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the Court. Absent a court order to the contrary, the Non-Party

shall bear the burden and expense of seeking protection in this Court of its Protected Material.

10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

When a Producing Party gives notice to Receiving Parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order that provides for production without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a communication or information covered by the attorney-client privilege or work product protection, the parties may incorporate their agreement in the stipulated protective order submitted to the Court.

12. MISCELLANEOUS

12.1 Right to Relief. Nothing in this Order abridges the right of any person to seek its modification by the Court in the future.

12.2 Right to Assert Other Objections. By stipulating to the entry of this

1 Protective Order, no Party waives any right it otherwise would have to object to
2 disclosing or producing any information or item on any ground not addressed in
3 this Stipulated Protective Order. Similarly, no Party waives any right to object
4 on any ground to use in evidence of any of the material covered by this Protective
5 Order.

6 12.3 Filing Protected Material. A Party that seeks to file under seal any
7 Protected Material must comply with Civil Local Rule 141. Protected Material
8 may only be filed under seal pursuant to a court order authorizing the sealing of
9 the specific Protected Material at issue. If a Party's request to file Protected
10 Material under seal is denied by the court, then the Receiving Party may file the
11 information in the public record unless otherwise instructed by the court.

12 13. FINAL DISPOSITION

13 After the final disposition of this Action, as defined in Section 4
14 (DURATION), within 60 days of a written request by the Designating Party, each
15 Receiving Party must return all Protected Material to the Producing Party or
16 destroy such material. As used in this subdivision, "all Protected Material"
17 includes all copies, abstracts, compilations, summaries, and any other format
18 reproducing or capturing any of the Protected Material. Whether the Protected
19 Material is returned or destroyed, the Receiving Party must submit a written
20 certification to the Producing Party (and, if not the same person or entity, to the
21 Designating Party) by the 60 day deadline that (1) identifies (by category, where
22 appropriate) all the Protected Material that was returned or destroyed; and (2)
23 affirms that the Receiving Party has not retained any copies, abstracts,
24 compilations, summaries, or any other format reproducing or capturing any of the
25 Protected Material. Notwithstanding this provision, Counsel are entitled to retain
26 an archival copy of all pleadings, motion papers, trial, deposition, and hearing
27 transcripts, legal memoranda, correspondence, deposition and trial exhibits,
28 expert reports, attorney work product, and consultant and expert work product,

even if such materials contain Protected Material. Any such archival copies that contain or constitute Protected Material remain subject to this Protective Order as set forth in Section 4 (DURATION). To the extent the Parties are required by law to retain copies of Protected Materials in their Claim Files, such Protected Material shall remain subject to this Protective order as set forth in Section 4.

14. Any violation of this Order may be punished by any and all appropriate measures including, without limitation, contempt proceedings and/or monetary sanctions.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

Dated: February 12, 2025 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By /s/ Preston B. Bennett
PRESTON B. BENNETT

Attorneys for Defendants The Travelers Indemnity
Company of Connecticut and Travelers Property
Casualty Company of America

Dated: February 12, 2025 McCORMICK, BARSTOW, SHEPPARD, WAYTE &
CARRUTH LLP

By /s/ James P. Wagoner
JAMES P. WAGONER

Attorneys for Plaintiff Crestbrook Insurance
Company

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
_____ [print or type full address], declare under penalty of perjury
that I have read in its entirety and understand the Stipulated Protective Order that
was issued by the United States District Court for the Eastern District of
California on [date] in the case of *Crestbrook Insurance Company v. Travelers
Indemnity Company of Connecticut, et al.*, Case No. 1:24-cv-1075-SAB. I agree
to comply with and to be bound by all the terms of this Stipulated Protective
Order, and I understand and acknowledge that failure to so comply could expose
me to sanctions and punishment in the nature of contempt. I solemnly promise
that I will not disclose in any manner any information or item that is subject to
this Stipulated Protective Order to any person or entity except in strict
compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District
Court for the Eastern District of California for the purpose of enforcing the terms
of this Stipulated Protective Order, even if such enforcement proceedings occur
after termination of this action. I hereby appoint _____
[print or type full name] of _____
[print or type full address and telephone number] as my California agent for
service of process in connection with this action or any proceedings related to
enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____

COURT ORDER ENTERING STIPULATED PROTECTIVE ORDER

Pursuant to the stipulation of the parties and good cause appearing, IT IS HEREBY
ORDERED that:

1. The above stipulated protective order is ENTERED;
2. The provisions of the parties' stipulation and this protective order shall remain in effect until further order of the Court;
3. The parties are advised that pursuant to the Local Rules of the United States District Court, Eastern District of California, any documents which are to be filed under seal will require a written request which complies with Local Rule 141;
4. The party making a request to file documents under seal shall be required to show either good cause or compelling reasons to seal the documents, depending on the type of filing, Pintos v. Pac. Creditors Ass'n, 605 F.3d 665, 677–78 (9th Cir. 2009); Ctr. for Auto Safety v. Chrysler Grp., LLC, 809 F.3d 1092, 1101 (9th Cir. 2016); and
5. If a party's request to file Protected Material under seal is denied by the Court, then the previously filed material shall be immediately accepted by the court and become information in the public record and the information will be deemed filed as of the date that the request to file the Protected Information under seal was made.

IT IS SO ORDERED.

Dated: **February 12, 2025**



STANLEY A. BOONE
United States Magistrate Judge